

**REMARKS**

Applicants respectfully request further examination and reconsideration in view of the arguments set forth fully below. Claims 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 were previously pending in this application. Within the previous Office Action, Claims 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 have been rejected. Accordingly Claims 1-7, 10-14, 18-21, 28-34, 37-44, 56-62 and 64-66 are now pending in this application.

**Rejections Under 35 U.S.C. § 103**

Within the Office Action, Claims 1-7, 10, 12-14, 18-21, 28-34, 37-44, 56-62 and 64-66 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,526,581 to Edson (hereinafter "Edson") in view of U.S. Patent No. 6,470,378 to Tracton et al. (hereinafter "Tracton"). The applicants respectfully disagree. Edson teaches a multi-service in-home network with an open interface. Edson teaches using a gateway providing an open software interface to control in-home communications and to enable in-home devices of various divergent technologies to selectively access external communication features. [Edson, col. 5, lines 27-30] Edson teaches that the use of an open interface enables many different types of devices to communicate, and when desired, to access external communication resources through the in-home network media and the centralized gateway. [Edson, col. 5, lines 30-35] As recognized within the Office Action, Edson does not teach determining device identification information for the devices within the network and providing a configuration profile to a remote server.

Edson also does not teach automatically downloading an application associated with a device within a network from a server *based on the provided home network configuration profile*.

Furthermore, Edson teaches that diagnostics or software downloads could be automatic, but Edson does not teach automatic diagnostic software downloads as is claimed in the present invention. [Edson, col. 11, lines 37-40] Edson does not teach automatically downloading an application from the server to the home network, the application being operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application.

Tracton teaches dynamic content customization in a client server environment. Tracton teaches that the server sends a query to the client, requesting the client to identify its capabilities. [Tracton, col. 3, lines 55-58]. Tracton further teaches that the client then sends to the server a characteristic profile indicating to the server the client's available computing resources and network bandwidth. [Tracton, col. 3, lines 58-62] Tracton teaches that the server then is able to prepare or direct the client to appropriate resources. [Tracton, col. 3, lines 62-65] Tracton does not teach determining device identification information and a configuration profile for electronic devices within a *home network system*. Tracton only teaches that the client provides its own characteristic profile to the server. Unlike the characteristic profile of Tracton which includes computing resources and network bandwidth which are used generally for determining speed, the configuration profile of the present invention includes device identification information, home network user preferences, history of use, storage capacity, security capabilities as well as resources and bandwidth. The characteristic profile of Tracton is not interchangeable with the configuration profile of the present invention.

Tracton also does not teach automatically downloading an application associated with a device within a network from a server *based on the provided home network configuration profile*.

It is well settled that to establish a *prima facie* case of obviousness, three basic criteria must be met:

- 1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- 2) there must be a reasonable expectation of success; and
- 3) the prior art reference, or references, must teach or suggest all the claim limitations. MPEP § 2143.

The burden of establishing a *prima facie* case of obviousness based on the teachings of Edson and Tracton has not been met within the Office Action because these references, either singularly or in combination, do not disclose all claim limitations in each of Applicants' independent claims, and because there is no suggestion or motivation to combine or modify these references.

The combination of Edson and Tracton does not teach the present invention, as claimed. As discussed above, Edson teaches a multi-service network with an open interface. Edson does

not teach determining device identification information for the devices within the network and providing a configuration profile to a remote server. Tracton does not teach determining device identification information and a configuration profile for electronic devices within a *home network system*. Tracton teaches that a client provides only its own characteristic profile to a server. Accordingly, neither Edson, Tracton nor their combination teach determining device identification information for devices within a network and providing a configuration profile to a remote server. Further, neither Edson, Tracton nor their combination teach automatically downloading an application associated with a device within a network from a server *based on the provided home network configuration profile*.

There is no motivation to combine the teachings of Edson with Tracton. As discussed above, Edson relates to a multi-service network with an open interface. Tracton is not directed to a network of devices, but only to communications between a server and a client.

This is a classic case of impermissibly using hindsight to make a rejection based on obviousness. The Court of Appeals for the Federal Circuit has stated that “it is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious.” In Re Fritch, 972 F.2d, 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). As discussed above, Edson teaches a multi-service network with an open interface. Tracton is not directed to a *network of devices*, but *only* to communications between *a server and a client*. There is no hint, teaching or suggestion in any of these references to warrant their combination. As discussed above, Tracton is not directed to a network of devices. Further, none of the cited references Edson, Tracton nor their combination teach or make obvious determining device identification information for devices within a network and providing a configuration profile to a remote server. To conclude that this is obvious based on the teachings of these references, is to use hindsight based on the teachings of the present invention and to read much more into Edson and Tracton than their actual teachings. This is simply not permissible based on the directive from the Court of Appeals for the Federal Circuit.

Within the Office Action, the motivation that is cited to justify the combination of Edson and Tracton, is that the combination “would result in a system, which provides profile information to a remote server so that tailored application data would be provided to a home-networked device.” This is the result of the combination, which is an improper basis for justifying the combination. In order to be proper, as stated within section 2143 of the MPEP,

quoted above, “there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.” Here, within the Edson or Tracton references, there is no suggestion or motivation within the references themselves to combine the references. Further, there is no suggestion or motivation in the knowledge that was generally available to one of ordinary skill in the art to combine the references. By justifying the combination with the result of the combination, this result being the advantages of the presently claimed invention, it is clear that the combination of Edson and Tracton has been based on hindsight. Only with the presently claimed invention as a template would one find the “motivation” or result provided within the Office Action. Accordingly, the combination of Edson with Tracton is improper.

Even if the combination of Edson and Tracton is considered proper, it does not teach the presently claimed invention. In contrast to the teachings of Edson, Tracton and their combination, the present invention is directed to a system and method for identifying, accessing and managing service applications for use with associated devices in a network of devices. A device within the network of devices determines device identification information associated with the devices in the network of devices, determines a network system configuration protocol based on the device identification information and provides the configuration profile to a remote server. The server determines an application operative to provide a process associated with devices within the network of devices and communicates that application to the device. The device executes the application to provide a remote interactive process associated with the devices. This interaction between the device and the server is performed automatically, without user intervention. As discussed above, neither Edson, Tracton nor their combination teach determining device identification information for devices within a network and providing a configuration profile to a remote server. Further, neither Edson, Tracton nor their combination teach executing an application at a device within a network of devices that was received from a server and is used to provide a remote interactive process with devices in the network of devices. Further, neither Edson, Tracton nor their combination teach automatically downloading an application from a server associated with a device within a network. As also discussed above, neither Edson, Tracton nor their combination teach that the application is operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application or a maintenance application.

Claim 1 is an independent claim directed to a process of identifying and managing applications. The process of Claim 1 comprises determining device identification information associated with at least one electronic device included in a home network, determining a home

network configuration profile based at least on said device identification information, providing said home network configuration profile to a server, wherein the server is remote from the home network, based on the provided home network configuration profile, automatically downloading an application from the server to the home network, the application being operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application and executing said downloaded application within the home network. As discussed above, neither Edson, Tracton nor their combination teach determining device identification information associated with at least one electronic device included in a home network and determining a home network configuration profile based at least on said device identification information. Further, neither Edson, Tracton nor their combination teach providing a home network configuration profile to a server, wherein the server is remote from the home network. Still further, neither Edson, Tracton nor their combination teach executing an application that was received from a server within the home network. Further, neither Edson, Tracton nor their combination teach *based on the provided home network configuration profile*, automatically downloading an application from a server to the home network. As also discussed above, neither Edson, Tracton nor their combination teach that the application is operative to provide to the or each electronic device, a control application, an interface application, a device interplay application, a support application, a diagnostic application or a maintenance application. For at least these reasons, the independent Claim 1 is allowable over the teachings of Edson, Tracton and their combination.

Claims 2-7, 10, 12-14, 18-21 and 64 are dependent on the independent Claim 1. As discussed above, the independent Claim 1 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claims 2-7, 10, 12-14, 18-21 and 64 are all also allowable as being dependent on an allowable base claim.

The independent Claim 28 is directed to a process of identifying and accessing media content. The process of Claim 28 comprises determining device identification information associated with at least one electronic device included in a home network, determining a home network configuration profile based at least on said device identification information, providing said home network configuration profile to a server, wherein the server is remote from the home network and based on the provided home network configuration profile, automatically downloading media content from the server to be output by at least one electronic device. As

discussed above, neither Edson, Tracton nor their combination teach determining device identification information associated with at least one electronic device included in a home network and determining a home network configuration profile based at least on said device identification information. Further, neither Edson, Tracton nor their combination teach providing a home network configuration profile to a server remote from the home network. Still further, neither Edson, Tracton nor their combination teach *based on the provided home network configuration profile*, automatically downloading media content from the server to be output by at least one electronic device. For at least these reasons, the independent Claim 28 is allowable over the teachings of Edson, Tracton and their combination.

Claims 29-34 and 37 are dependent on the independent Claim 28. As discussed above, the independent Claim 28 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claims 29-34 and 37 are all also allowable as being dependent on an allowable base claim.

The independent Claim 38 is directed to an electronic device coupled to a network of devices. The electronic device of Claim 38 comprises a communications interface through which the electronic device communicates with a remote server, a network communications interface through which the electronic device communicates with devices within the network of devices, wherein the electronic device communicates with the devices within the network of devices to determine device identification information for one or more of the devices and a configuration profile of the one or more of the devices, further wherein the electronic device automatically provides the configuration profile to the remote server through the communications interface and, based on the provided configuration profile, automatically downloads an application from the remote server, the application being associated with the one or more of the devices and a processing circuit coupled to the communications interface and the network communications interface for executing the application to provide to the one or more devices, a control application, an interface application, a device interplay application, a support application, a diagnostic application, or a maintenance application. As discussed above, neither Edson, Tracton nor their combination teach determining device identification information for one or more of the devices and a configuration profile of the one or more of the devices. Further, neither Edson, Tracton nor their combination teach an electronic device that automatically provides the configuration profile to a remote server. Still further, neither Edson, Tracton nor their combination teach an electronic device that *based on the provided configuration profile*, automatically downloads an application from the remote server, the application being associated with the one or more of the devices. As also described above, neither Edson, Tracton nor their

combination teach executing the application to provide a control application, an interface application, a device interplay application, a support application, a diagnostic application or a maintenance application. For at least these reasons, the independent Claim 38 is allowable over the teachings of Edson, Tracton and their combination.

Claims 39-44 and 65 are dependent on the independent Claim 38. As discussed above, the independent Claim 38 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claims 39-44 and 65 are all also allowable as being dependent on an allowable base claim.

The independent Claim 56 is directed to an electronic device coupled to a network of devices. The electronic device of Claim 56 comprises a communications interface through which the electronic device communicates with a remote server and a network communications interface through which the electronic device communicates with devices within the network of devices, wherein the electronic device communicates with the devices within the network of devices to determine device identification information for one or more of the devices and a configuration profile of the one or more of the devices, further wherein the electronic device automatically provides the configuration profile to the remote server through the communications interface and, based on the provided configuration profile, automatically downloads media content from the remote server to be output by one or more of the devices. As described above, neither Edson, Tracton nor their combination teach an electronic device that communicates with the devices within a network of devices to determine device identification information and a configuration profile. Further, neither Edson, Tracton nor their combination teach an electronic device that automatically provides the configuration profile to a remote server. Still further, neither Edson, Tracton nor their combination teach an electronic device that *based on the provided configuration profile*, automatically downloads media content from the remote server to be output by one or more of the devices. For at least these reasons, the independent Claim 56 is allowable over the teachings of Edson, Tracton and their combination.

Claims 57-62 and 66 are dependent on the independent Claim 56. As discussed above, the independent Claim 56 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claims 57-62 and 66 are all also allowable as being dependent on an allowable base claim.

Within the Office Action, Claim 11 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Edson in view of Tracton in further view of U.S. Patent No. 6,618,764 to Shteyn. The applicants respectfully disagree. As discussed above, the combination of Edson and Tracton is improper. Further, Claim 11 is dependent on the independent Claim 1. As discussed

above, the independent Claim 1 is allowable over the teachings of Edson, Tracton and their combination. Accordingly, the dependent Claim 11 is also allowable as being dependent on an allowable base claim.

For the reasons given above, Applicants respectfully submit that the claims are in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,  
HAVERSTOCK & OWENS LLP

Dated: February 18, 2005

By: Jonathan O. Owens  
Jonathan O. Owens  
Reg. No. 37,902  
Attorneys for Applicants

CERTIFICATE OF MAILING (37 CFR§ 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP.

Date: 2-18-05 By: John D. Korman